

**BUREAU OF LAND MANAGEMENT
YUMA FIELD OFFICE
2555 E. Gila Ridge Rd.
Yuma, AZ 85365**

CATEGORICAL EXCLUSION (CX) FORM

CATEGORICAL EXCLUSION**CX NUMBER: CX AZ-320-2005-004****Case/Project No.: AZA 33037****PROJECT NAME:** *Temporary Use Permit for Medina General Contracting Inc.***TECHNICAL REVIEW:**

(T)	Program	Reviewer	Signature	Date
	Communications (Dispatch)			
T	Cultural/Paleontology	Sandra Arnold	/S/	3/1/05
T	Hazardous Material	Stephen Fusilier	/S/	3/1/05
T	Invasive Non-Native Species	Jeff Young	/S/	2/25/05
T	Lands/Realty	Arturo Lopez	/S/	2/24/05
	Land Law Examiner			
	Law Enforcement			
	Minerals			
	Operations			
	Range Management			
	Recreation			
	Soils			
	Surface Protection			
	Visual Resources			
	Water Rights			
	Wilderness			
	Wild Horses/Burros			
T	Wildlife/T & E Spp.	Jeff Young	/S/	2/25/05
T	Botanical/T & E Spp.	Jeff Young	/S/	2/25/05

Prepared by: /S/

Arturo Lopez
Realty Specialist

Date: 2/24/05Reviewed by: /S/

Karen Reichhardt
Planning & Environmental Coordinator

Date: 3/2/05Reviewed by: /S/

Thomas F. Zale
Assistant Field Manager

Date: 3/2/05**Name of Project:** *Temporary Use Permit for Medina General Contracting Inc.*

Number: CX AZ-320-2005-004

Case File No.: AZA 33037

Location (legal description):

This Temporary Use Permit AZA 33037 would affect the following public lands:

Gila and Salt River Meridian, Yuma County, Arizona,

T. 8 S., R. 23 W.,
sec. 35, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described contains 0.18 acre approximately.

Applicant: Medina General Contracting Inc.

Description of Proposed Action:

By application filed February 2, 2005, Medina General Contracting Inc., requested a temporary use permit (TUP) that would be used as an access road for the construction of a brick side wall on private land. The TUP would be 20 feet wide by 395 feet long. The TUP would be issued under the authority of Title V of the Federal Land Policy and Management Act, as amended. The disturbed area would be approximately 0.18 acre. The TUP would be granted for a 1-year term with a right to renew. Rental would be determined in accordance with 43 CFR 2803.1-2. The area would be reclaimed to its original condition once the proposed action is no longer needed.

Categorical Exclusion Reference:

516 DM 6, Appendix 5.4: E (19) – Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

Compliance and Monitoring Responsibility: *YFO Lands/Realty*

The Yuma Field Office Lands Staff would verify that the holder complies with regulations found at 43 CFR 2800, and the stipulations, terms and conditions set forth in the TUP and would regularly conduct compliance inspections.

Required Stipulations:

Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(d) or as directed by the authorized officer.

- c. Each grant issued pursuant to the authority of paragraph (1)(a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter not to exceed 10 years. Provided, however, that a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.
- d. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- e. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.
- f. The holder shall conduct all activities associated with the construction, operation and termination of the right-of-way within the authorized limits of the right-of-way.
- g. Thirty (30) days prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
- h. The holder shall meet Federal, State, and local emission standards for air quality.
- i. Construction-related traffic shall be restricted to routes approved by the authorized officer. New access roads or cross-country vehicle travel will not be permitted unless prior written approval is given by the authorized officer. Authorized roads used by the holder shall be rehabilitated or maintained when construction activities are complete as approved by the authorized officer.
- j. Excess excavated, unsuitable, or slide materials shall be disposed of as directed by the authorized officer.
- k. No signs or advertising devices shall be placed on the premises or on adjacent public lands, except those posted by or at the direction of the authorized officer.
- l. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
- m. If in connection with operations under this authorization, any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The holder shall continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.

- n. Prior to preconstruction activities on the subject parcel, the holder shall identify all noxious weeds present. A list of the weeds shall be provided to the authorized officer. A determination will be made by the authorized officer of any noxious weeds that may require flagging for treatment. The holder shall treat the noxious weeds as required by the authorized officer.
- o. The holder shall clean off-road equipment (power or high-pressure cleaning) of all mud, dirt, and plant parts prior to moving equipment onto public land authorized under this grant.
- p. Gravel and/or fill material to be placed in relatively weed-free areas must come from weed-free sources.
- q. Prior to obtaining gravel and/or fill material, the authorized officer shall inspect the source for weeds and determine adequacy of site.
- r. The holder shall protect all survey monuments found within the right-of-way. Survey monuments include, but are not limited to, General Land Office and Bureau of Land Management Cadastral Survey Corners, reference corners, witness points, U.S. Coastal and Geodetic benchmarks and triangulation stations, military control monuments, and recognizable civil (both public and private) survey monuments. In the event of obliteration or disturbance of any of the above, the holder shall immediately report the incident, in writing, to the authorized officer and the respective installing authority if known. Where General Land Office or Bureau of Land Management right-of-way monuments or references are obliterated during operation, the holder shall secure the services of a registered land surveyor or a Bureau cadastral surveyor to restore the disturbed monuments and references using surveying procedures found in the Manual of Surveying Instructions for the Survey of the Public Lands in the United States, latest edition. The holder shall record such survey in the appropriate county and send a copy to the authorized officer. If the Bureau cadastral surveyors or other Federal surveyors are used to restore the disturbed survey monument, the holder shall be responsible for the survey cost.
- s. The holder shall survey and clearly mark the centerline and/or exterior limits of the right-of-way, as determined by the authorized officer.
- t. The holder shall permit free and unrestricted public access to and upon the right-of-way for all lawful purposes except for those specific areas designated as restricted by the authorized officer to protect the public, wildlife, livestock, or facilities constructed within the right-of-way.
- u. Holder shall maintain the right-of-way in a safe, usable condition, as directed by the authorized officer. (A regular maintenance program shall include, but is not limited to, blading, ditching, culvert installation, and surfacing.)
- v. Construction sites shall be maintained in a sanitary condition at all times; waste materials at those sites shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.
- w. The holder shall furnish and apply water or other means satisfactory to the authorized officer for dust control.

- x. There is reserved to the United States, its successors and assigns, the prior right to use any of the land herein described to construct, reconstruct, operate, and maintain dams, dikes, levees, reservoirs, canals, wasteways, laterals, ditches, drainage works, flood channels, telephone and telegraph lines, fiber-optic cables, electric transmission lines, roadways, and appurtenant irrigation structures, without any payment made by the United States, or its successors and assigns, for such right, with the agreement on the part of the applicant that if the construction or reconstruction of any or all of such dams, dikes, levees, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, fiber-optic cables, electric transmission lines, roadways, or appurtenant irrigation structures across, over, or upon said lands should be made more expensive by reason of the existence of improvements or workings of the applicant thereon, such additional expense is to be estimated by the Secretary of the Interior, whose estimate is to be final and binding upon the parties hereto, and that within thirty days after demand is made upon the applicant for payment of such sums, the applicant will make payment thereof to the United States, or its successors and assigns, constructing or reconstructing such dams, dikes, levees, reservoirs, canals, wasteways, laterals, ditches, telephone and telegraph lines, fiber-optic cables, electric transmission lines, roadways, or appurtenant irrigation structures across, over, or upon said lands. There is also reserved to the United States the right of its officers, agents, employees, licensees, and permittees, at all proper times and places freely to have ingress to, passage over, and egress from all of said lands for the purpose of exercising, enforcing, and protecting the rights reserved herein.

Applicant further agrees that the United States, its officers, agents, employees, and assigns, shall not be liable for any damage to the improvements or works of the applicant resulting from the construction, reconstruction, operation, or maintenance of any of the works hereinabove enumerated.

Flat-tailed Horned Lizard Restrictions

1. A worker education program shall be developed and implemented. Wallet-cards summarizing this information shall be provided to all construction and maintenance personnel. The education program shall include the following aspects at a minimum:
 - biology and status of the flat-tailed horned lizard,
 - protection measures designed to reduce potential impacts to the species,
 - function of flagging designating authorized work areas,
 - reporting procedures to be used if a flat-tailed horned lizard is encountered in the field, and
 - importance of exercising care when commuting to and from the project area to reduce mortality of flat-tailed horned lizards on roads.
2. Prior to project initiation, an individual shall be designated as a field contact representative (FCR). The FCR shall have the authority to ensure compliance with protective measures for the flat-tailed horned lizard and will be the primary agency contact dealing with these measures. The FCR shall have the authority and responsibility to halt activities that are in violation of these terms and conditions.
3. All project work areas shall be clearly flagged or similarly marked at the outer boundaries to define the limit of work activities. All construction and restoration workers shall restrict their activities and vehicles to areas which have been flagged to eliminate adverse impacts to the flat-tailed horned lizard and its habitat. All workers shall be instructed that their activities are restricted to flagged and cleared areas.
4. Only persons authorized by the California Department of Fish and Game [California] or the Arizona Game and Fish Department [Arizona] shall be permitted to handle flat-tailed horned lizards.

5. Relocated flat-tailed horned lizards shall be placed in the shade of a large shrub a short distance from the construction zone and in the direction of undisturbed habitat. If surface temperatures in the sun are less than 30° C or exceed 50° C, the biologist or FCR, if authorized to handle, shall hold the flat-tailed horned lizard for later release. Initially, captured flat-tailed horned lizards shall be held in a cloth bag, cooler, or other appropriate clean, dry container from which the lizard cannot escape. Lizards shall be held at temperatures between 25 and 35° C and shall not be exposed to direct sunlight. Release shall occur as soon as possible after capture and during daylight hours when surface temperatures range from 32 to 40° C. If such conditions do not occur within 48 hours of capture, the lizard shall be transferred to a terrarium containing at least 2 inches of sand from the project area. The terrarium shall be maintained at 10 to 20° C until conditions at the site are appropriate for release. Lizards shall be allowed to acclimate to higher surface temperatures prior to release. The biologist shall be allowed some judgement and discretion to ensure that survival of flat-tailed horned lizards found in the project area is likely.
6. Within flat-tailed horned lizard habitat, the area of disturbance of vegetation and soils shall be the minimum required for the project. [If possible, specify a maximum disturbance allowable based on the specifics of the project.] Clearing of vegetation and grading shall be minimized. Wherever possible, rather than clearing vegetation and grading the right-of-way, equipment and vehicles shall use existing surfaces or previously disturbed areas. Where grading is necessary, surface soils shall be stockpiled and replaced following construction to facilitate habitat restoration. To the extent possible, disturbance of shrubs and surface soils due to stockpiling shall be minimized.
7. Existing roads shall be used for travel and equipment storage whenever possible.

Decision:

BLM has determined that the proposal conforms to the land use plan, is in accordance with the categorical exclusion criteria, and that it would not involve any significant adverse environmental effects. Therefore, it is categorically excluded from further environmental review. The Proposed Action will have no effect on the President's Energy Policy and a Statement of Adverse Energy Impact is not required. The proposed action will be implemented subject to the stipulations attached to the authorizing document.

Approved by: /S/ _____
Rebecca Heick
Yuma Field Manager

Date: 3/3/05 _____

Categorical Exclusion Review

Department of the Interior Departmental Manual 516 2.3.A(3) provides for a review of the following categorical exclusion criteria to determine if exceptions apply to this project.

	YES	NO
CRITERIA		
1. Has significantly adverse effects on public safety.		X
2. Adversely affects unique geographic, historic, or cultural resources; park, recreation, or refuge lands; wilderness areas; wilderness study areas; wild and scenic rivers; sole or principle drinking water aquifers; prime farmlands; wetlands; floodplains; or ecologically significant or critical areas including those listed on the Department of Interior National Register of Natural Landmarks.		X
3. Has highly controversial environmental effects.		X
4. Has highly uncertain environmental effects or involves unique or unknown environmental risks.		X
5. Establishes a precedent for future action or represents a decision in principle about a future consideration with significant environmental effects.		X
6. Is related to other actions with individually insignificant but cumulatively significant effects.		X
7. Adversely affects property listed or eligible for listing in the National Register of Historic Places.		X
8. Affects a species listed or proposed to be listed in the list of Endangered or Threatened Species.		X
9. Threatens to violate a Federal, State, local, or tribal law or requirement imposed for the protection of the environment or which requires compliance with Executive Order 11988 (Floodplain Management), 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act.		X
10. Does not conform to Bureau of Land Management land use plans for the area.		X